Frontier Corporation

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MAR 23 1998

March 20, 1998

BY OVERNIGHT MAIL

Ms. Magalie Ramon Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 97-250

Dear Ms. Salas:

Enclosed for filing please find an original plus six (6) copies of the Reply Comments of the Frontier Telephone Companies in the above-docketed tariff investigation.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,

Michael J. Shortley, III

cc: Competitive Pricing Division (2)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
	)	**CC Docket No. 97-250**
Tariffs Implementing	)	
Access Charge Reform	)	

REPLY COMMENTS OF THE FRONTIER TELEPHONE COMPANIES

Introduction

Frontier Telephone of Rochester, Inc., its Tier 2 affiliates that concur in its Tariff F.C.C. No. 1 and Frontier Communications of Iowa, Inc. and Frontier Communications of Minnesota, Inc. (collectively, "Frontier" or the "Frontier Telephone Companies") submit this reply to the comments received[1] on its direct case[2] in this tariff investigation.[3]

AT&T's and MCI's comments constitute pleas that the Commission retroactively prescribe methodologies that exchange carriers should have followed in their January 1, 1998, tariff filings. It is too late for the Commission to entertain these requests, as that would amount to retroactive ratemaking/rulemaking.[4] Whatever the merits of these

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1 Frontier has received comments from AT&T Corp. ("AT&T") and MCI Telecommunications Corp. ("MCI").

2 *Tariffs Implementing Access Charge Reform*, CC Dkt. 97-250, Direct Case of the Frontier Telephone Companies (Feb. 27,1998) ("Frontier Direct Case").

3 *Tariffs Implementing Access Charge Reform*, CC Dkt. 97-250, Order Designating Issues for Investigation and Order on Reconsideration, DA 98-151 (Com. Car. Bur. Jan. 28, 1998) ("Designation Order").

4 *See, e.g.*, Frontier Direct Case at 15 n.24.

changes -- and Frontier does not disagree with several -- a tariff investigation is not the appropriate forum to consider these requests.

If the Commission confines -- as it should -- its investigation to the issue of whether the Frontier Telephone Companies were faithful to the Commission's rules and directives -- such as they could be reasonably divined -- it must dismiss this investigation as to the Frontier Telephone Companies.

First, Frontier utilized a reasonable and long-used definition to distinguish primary from non-primary lines. It utilized a per address/per account methodology that comports with the Commission's requirements and that was the *only* methodology that the Frontier Telephone Companies could have employed in time for the January 1, 1998, access tariff filings.

Second, AT&T is simply wrong in claiming that the *Access Charge Reform* order required the use of basket revenues to calculate line port and end office port exogenous costs. The Commission ordered that *costs* not *revenues* be removed from the local switching basket. The Commission knows the distinction and the Frontier Telephone Companies properly applied it.

Third, Frontier's transport interconnection charge ("TIC") adjustment properly followed the Commission's directives. Contrary to AT&T's and MCI's assertions, it properly utilized a July 1, 1997, starting date for the removal of central office equipment ("COE") maintenance and marketing costs; properly accounted for the actual rather than assumed minutes of use; and properly determined its residual and facilities-based TIC amounts.

Fourth, Frontier properly based its universal service exogenous costs upon end-user revenues reported on Form 457. That Form constitutes the basis for exchange carrier's universal service contributions. Consequently, it makes sense to utilize From 457 as the basis for calculating universal service exogenous costs.

Argument

I. FRONTIER'S PRIMARY/NON-PRIMARY RESIDENTIAL LINE COUNT IS ACCURATE UNDER THE CIRCUMSTANCES.

The Frontier Telephone Companies completely agree with AT&T and MCI that the Commission should abolish the distinction between primary and non-primary residential lines.[5] The Commission itself could not create such a definition in time for the January 1, 1998, tariff filings.[6] It should not -- and may not -- penalize exchange carriers for failing to divine the Commission's intention or speculation.

AT&T's and MCI's objections to the account approach for distinguishing primary from non-primary lines[7] are misguided. As Frontier stated in its direct case[8] -- a statement that AT&T and MCI do not dispute -- the methodology that Frontier utilized was the only one that it could have utilized in time to prepare the January 1, 1998, access tariff filings *and* to bill interexchange carriers on a timely and accurate basis.[9]

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5 *Tariffs Implementing Access Charge Reform*, CC Dkt. 97-250, Comments of Frontier Corporation at 5-6 (March 17, 1998) ("Frontier Prescription Comments").

6 *See Defining Primary Lines*, CC Dkt. 97-181, Notice of Proposed Rulemaking, 12 FCC Rcd. 13647 (1997).

7 AT&T at 4-7; MCI at 2-4.

8 Frontier Direct Case at 2.

9 MCI complains that exchange carriers "have not been providing the PICC billing information required by the Second Reconsideration Order . . . ." MCI at 4. With respect to Frontier, this assertion is patently false. Frontier rendered access bills incorporating the Commission's

Moreover, neither AT&T nor MCI provide any evidence that Frontier's use of the service account methodology understated non-primary residential lines.

AT&T's preferred approach -- the service address approach -- does not meet the criteria that AT&T advocates as its litmus test.[10] For Frontier (and, Frontier believes, for most interexchange carriers), AT&T's proposed methodology is neither easily administrable nor easily verifiable. The short of it is that there is *no* good definition of primary versus non-primary residential lines -- all the more reason for the Commission to discard the distinction.[11]

Unless and until the Commission eliminates the distinction, it cannot adopt new rules distinguishing primary from non-primary residential lines and require exchange carriers to apply those rules retroactively.

II. FRONTIER PROPERLY CALCULATED ITS LINE PORT AND END OFFICE TRUNK PORT EXOGENOUS COSTS.

The Frontier Telephone Companies agree with AT&T[12] that the methodologies the Commission articulated in the *Designation Order* for calculating line port and end office trunk port exogenous costs are untenably inconsistent. The same methodology should be used for both. The difference of opinion lies over whether the Commission

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numerous rate structure changes in a timely and accurate manner. MCI should be more careful with its accusations.

10 AT&T at 5.

11 Curiously, MCI asserts in its comments that "by service address is more reasonable." MCI at 4. However, in its Emergency Petition for Prescription, MCI requests that exchange carriers be required to bill by account (preferable, interexchange carrier account information, but failing that, exchange carrier account information). *See Tariffs Implementing Access Charge Reform,* CC Dkt. 97-250, MCI Emergency Petition for Prescription at 18-19 (Feb. 24, 1998). MCI cannot have it both ways.

12 AT&T at 13.

should have specified the use of revenues or Part 69 revenue requirement to effectuate that removal. While there is merit to both approaches, the Commission cannot retroactively specify one over the other, as AT&T and MCI wish.

Regardless of the merits of this debate, the Frontier Telephone Companies reasonably chose to utilize the Part 69 revenue requirement approach. This approach best captures *costs* -- which, not *revenues*, is what the Commission ordered removed.[13]

AT&T claims that basket revenues, not costs, best approximate costs in a price cap environment.[14] It bolsters this claim by asserting that, under the two different regulatory regimes, both methodologies equate to maximum allowable revenues.[15] This is a *non sequitur.* Under cost-of-service regulation, exchange carriers were entitled to recover their *costs* of service, including a reasonable return on capital. That is how a Part 69 revenue requirement is computed, *i.e.*, it is a *cost* computation. As MCI correctly notes,[16] permitted earnings under price caps bear only an attenuated relationship to costs. That observation, however, proves Frontier's point. A Part 69 revenue requirement calculation remains the best estimate of *costs* and *costs* is what the Commission ordered removed.

AT&T's reference to prior precedent[17] further validates the methodology employed by the Frontier Telephone Companies. When the Commission wanted to

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13 See Frontier Direct Case at 7-15.

14 AT&T at 16-17.

15 *Id.* at 17.

16 MCI at 8.

17 AT&T at 18-19.

specify a revenue-based methodology for exogenous cost calculations, it did so; when it did not, the Commission accepted Part 69 revenue requirement calculations.[18]

At bottom, regardless of the merits of the debate over the proper methodology, the Commission cannot, in the context of a tariff investigation, conclude that the Frontier Telephone Companies utilized an inappropriate methodology. If the Commission wishes to prescribe a different methodology, it may do so only prospectively.

III. FRONTIER'S TIC ADJUSTMENTS COMPLIED WITH APPLICABLE COMMISSION GUIDELINES.

AT&T complains that certain exogenous cost adjustments had the "surprising" result of increasing, rather than decreasing, the TIC. The short answer is "too bad." Regardless of the results that the Commission expected, its directives were clear enough that the Commission cannot fault the Frontier Telephone Companies for the methodologies that they employed.

A. Frontier Properly Removed COE Maintenance and Marketing Expense.

Frontier described at length the methodology that it utilized to reallocate COE maintenance and marketing expense.[19] The core of AT&T's and MCI's complaints is that Frontier based its calculations upon the post-July 1, 1997, TIC.[20] Contrary to the Commission's tentative conclusion[21] -- upon which AT&T bases its assertions -- "it

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18 *See* Frontier Direct Case at 8-10.

19 *Id.* at 16-20.

20 AT&T at 22-23.

21 Designation Order, ¶ 68.

makes no sense to allocate a reduction in revenues on the basis of revenues that have already been removed."[22] Neither AT&T nor MCI address this analysis.[23]

Moreover, the methodology proposed by MCI for calculating end user common line ("EUCL") charges resulting from the removal of COE maintenance and marketing expense from the local switching basket[24] turns the existing Part 69 rules on their head. MCI would require exchange carriers to adjust separations and cost allocations to achieve a desired ratemaking result. That, however, is not the way ratemaking is done.[25]

For its part, AT&T describes at length its preferred methodology for effectuating the removal of COE maintenance and marketing expense.[26] AT&T, however, fails to note that this is the methodology Frontier employed.

B. Frontier Followed the Commission's Directives in Utilizing Actual Minutes of Use.

This is one particular area in which the Commission expresses surprise are that the results (*e.g.,* an increase in the TIC) did not match the Commission's expectations.[27] Frontier agrees that the results differ from what the Commission -- or,

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22 Frontier Direct Case at 19.

23 AT&T merely states that "price cap LECs have misallocated over $37 million...." AT&T at 23. Mere recitation of numbers, however, does not substitute for analysis.

24 MCI at 10-11.

25 MCI observes that "average per-line port costs would increase over time as analog switches are replaced with digital switches." *Id.* at 11. MCI is apparently arguing that the X-factor selected by the Commission is too high. Coming from MCI, this is certainly a curious observation.

26 AT&T at 23 n.40.

27 Designation Order, ¶ 77.

Frontier, for that matter -- expected. Again, this is a matter that the Commission may only correct on a prospective basis.

AT&T and MCI[28] both suggest that the Commission *should have* required exchange carriers to hold all other variables since 1993 -- *e.g.,* rates, DS3/DS1 ratios, copper/fiber mix -- constant.[29] The fact is that the Commission did not do so. Frontier agrees with the Commission's goals,[30] but firmly believes that the Commission may only address those goals prospectively.

C. Frontier Properly Distinguished Its Facilities from Residual TIC.

AT&T claims that Frontier and SBC-Nevada understated targeted TIC.[31] What AT&T fails to appreciate is that Frontier's methodology results in less TIC true-up than AT&T's methodology.[32] Apparently, it is AT&T, *not* Frontier, that understates Frontier's targeted TIC. On this score, there is nothing about which AT&T should complain.

V. FRONTIER'S UNIVERSAL SERVICE EXOGENOUS COST CALCULATIONS ARE ACCURATE.

AT&T and MCI both complain that the use of Form 457 to compute universal service exogenous costs result in erroneous calculations.[33] The problem is that the Commission has permitted universal service assessments to be allocated among price

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28 AT&T at 24-25; MCI at 14-15.

29 AT&T at 25.

30 Frontier Direct Case at 22.

31 AT&T at 26-29.

32 *Compare* AT&T, Ex. TIC-1 *with* Frontier Direct Case, Ex. 7.

33 AT&T at 31-32; MCI at 17-18.

cap baskets. That being said, the basis for exogenous cost recovery is what exchange carriers actually have to pay. Form 457 identifies that amount and is, therefore, a reasonable starting point.

AT&T and MCI both appear to complain -- not that Form 457 is an inappropriate starting point -- but that certain exchange carriers have not correctly mapped the appropriate dollar amounts to the appropriate baskets.[34] AT&T and MCI do not level this allegation against Frontier and, therefore, Frontier presumes that this complaint does not apply to it.

Conclusion

For the foregoing reasons, the Commission should terminate this investigation as to the Frontier Telephone Companies.

Respectfully submitted,

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March 20, 1998

[34] AT&T at 30-31; MCI at 17.

Certificate of Service

I hereby certify that, on this 20th day of March, 1998, copies of the foregoing Reply Comments of the Frontier Telephone Companies were served by first-class mail, postage prepaid, upon the parties on the attached service list.

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